

ANIMAL CRUELTY INVESTIGATIONS OUTLINE

YOUR VICTIMS CANNOT SPEAK - SUCCESSFUL PROSECUTION
DEPENDS ON THE THOROUGHNESS OF THE INVESTIGATION

UTILIZE A TEAM APPROACH TO MAXIMIZE THE STRENGTHS &
EXPERTISE OF VETERINARIANS, ANIMAL CARE OFFICERS,
LIVESTOCK, THE HUMANE SOCIETY AND LAW ENFORCEMENT

I. A.R.S. § 13-2910

: inflicted trauma
or neglect = medical and environmental(incl. abandonment)

: serious injury vs. non-serious injury

: culpable mental states = intentionally/knowingly vs. recklessly

A. Inflicted trauma: gunshots, arrows, beating, stomping, throwing, strangulation, burning, drowning, stabbing, poisoning, restraints, trapping, sexual assault etc.

1. Degree of injury and/or potential medical consequences
 - a. primary determinant of felony vs. misdemeanor
2. Why was it done? discipline? training? anger? revenge? etc.
A potential defenses
3. How was it done?
 - a. helpful in determining culpable mental state

B. Environmental/Medical Neglect: lack of shelter, water, food and adequate medical care = left in hot cars; tick fever; unhygienic living conditions; hoarding; inadequate space; failure to treat for colic; failure to treat for parasites, serious illnesses.

1. Degree of injury and/or potential injury

2. Why are these acts or omissions happening? ignorance or lack of resources v. just "too busy" or "don't care"
 - a. helpful in determining culpable mental state
3. Resource or "ignorance" issues may be addressed with appropriate resources and information but needs short-term follow-up
 - a. I can't afford to take my dog to the vet but the outdoor trash can is filled with empty beer cans.
 - b. take a look at other members of the family

POVERTY, HOWEVER, IS NO EXCUSE FOR CRUELTY

C. Definitions:

1. Serious Physical Injury: creates a reasonable risk of death, or which causes serious/permanent disfigurement, serious impairment of health, loss or protracted impairment of the function of any bodily organ or limb.
2. Intentionally: w/ respect to a result or conduct described by a statute, a person's objective is to cause that result or engage in that conduct.
3. Knowingly: w/ respect to conduct or a circumstance described by a statute, a person is aware or believes that his/her conduct is of that nature or the circumstance exists
4. Recklessly: w/ respect to conduct or a circumstance described by a statute, a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or the circumstance exists = a gross deviation from the standard of conduct of a reasonable person
5. Absence of mens rea: A.R.S. 13-202 - where no mental state is required by statute, no particular mental state need be proven.
Many local ordinances do not specify any mental state.

D. Felony vs. Misdemeanor

1. Intentionally/knowingly causing serious or potentially serious injury

a. Determine the degree of injury or cause of death

I. Veterinary exam

ii. Necropsy results

b. If cannot rule out, the case must be investigated as a felony, the following must be established:

I. Who owns/has custody of the victim?

ii. Who inflicted the injury/injuries?

iii. How were they inflicted?

iv. Who omitted the care?

v. Where did the crime occur?

vi. Why did the crime occur?

2. Only if it cannot be established that the acts/omissions were committed intentionally or knowingly should the case proceed as a misdemeanor.

3. Killing an animal belonging to another is a misdemeanor unless it is defined as livestock, in which case it is a class five felony.

the It is, however a defense if it is a dog which has killed or is in act of chasing, harming or killing one's livestock.

4. If death/injuries are suspicious for a deliberate human act, the case should be investigated as a felony.

E. Defenses Which Must be Ruled Out:

1. "necessary" (unnecessary infliction of serious physical injury)

a. protect oneself or family

2. training

a. tie outs in pit bull cases

- b. use of various forms of physical force/restraint in horse training
 - c. The Humane Society/breed groups have expertise in defeating these
 - d. drowning for digging
- 3. self-help
 - a. ear/tail docking
 - b. castration
 - c. practicing veterinary medicine w/o a license
- 4. didn't know animal needed veterinary care
 - c. veterinary expertise needed here
- 5. use or exhibition in rodeos, shows, hunting dog training

II STEPS IN THE INVESTIGATION

A. Contact your partner agency: Law Enforcement should contact Livestock, Animal Care or Game and Fish depending on the species involved and vice versa. County Attorneys have prosecutorial jurisdiction over all offenses involving violations of Livestock and Game and Fish regulations.

B. The Crime Scene

1. Securing the scene as in any other crime
 - a. who is the first responder? Animal Care,, Law Enforcement or Livestock?
 - b. the first responder is in charge and must remain on and maintain the scene until appropriately relieved.
2. Document persons present and the relationship of each to the victim; all adults in the family are responsible for the victim so need to establish all who are in the household
3. Document the condition of the victim
 - a. be descriptive: what do you see, smell and hear?
 - b. measure pertinent distances? i.e.: how far away is the water

- bowl from the end of the chain; how dirty is the cage or stall;
 - c. describe your victim: what species or breed; coloration; gender if possible; what is the demeanor/behavior of the victim: listless, off-color, no feathers, laying down
 - d. describe surrounding conditions: i.e.: outside temperature and no shade; no water barrels in the stall; victim surrounded by waste
4. Diagram surroundings with measurements, if possible
 5. Photographs of the victim as well as the surroundings: large barn with no hay or feed in it; empty water barrels;
 - a. the scene consists of everywhere to which the animal has/had access which means overalls as well as close ups
 - b. obviously this includes the weapons involved
 6. Collect evidence: chains and other forms of tie-outs, bats, knives, blood spatter, vomitus, tissue and hair, clothing, feed receipts, vet bills, pamphlets on the proper care of your iguana
 7. Document statements made by persons present - use quotations: "I just beat the dog and I'm looking for the cat"; "the training methods I use are perfectly acceptable"; "I didn't think I needed to call the vet, the horse just doesn't eat much. Have I wormed her? What does that mean?"
 8. Document addresses, phone numbers, etc for all persons present
 9. Interview the owner, custodian, caretaker on tape - whoever had care or control of the victim: ascertain how long the victim has been with him/her; under what circumstances was the victim acquired; who is the veterinarian and when the last time seen; experience with this type of

victim; understanding of basic care requirements;
discussed the victim's condition with anyone; allow
person to completely describe the circumstance under which the
injury or illness occurred - including who, what, when, where and
how; any efforts to treat injury or illness; ascertain mental
state of person: e.g.: restraint device used to punish horse for
biting - establishes the act was done intentionally or knowingly;
from whom did he learn this training technique or medical
procedure; what formal training does he have.

C. The Victim

1. The dog, cat, rabbit, parakeet, horse is part of your crime scene as well and must be maintained as evidence.
 - a. do not return the animal to anyone at the scene
 - b. do obtain veterinary treatment and document where the victim was taken and by whom
 - c. if the victim has died, make arrangements for the victim to be transported for a necropsy (animal autopsy) and document how and by whom the victim was transported
 - d. do not return euthanized victims to owners/custodians for burial.

D. Evidence Collection

1. Place evidence in a bag or box and seal w/ initials, date and time.
2. Complete property control form
3. Secure in locked compartment
4. Maintain Chain of Custody
 - a. Items collected by any agency which are to be used in a criminal prosecution must be provided to the appropriate Law Enforcement agency to hold as evidence as soon as possible.
 - b. Appropriate forms must be completed and maintained to document the transfer of such items.

E. Follow-up Investigation

1. Obtain 911 tapes
2. Conduct tape-recorded interviews with other witnesses within 24 hours
3. Conduct tape-recorded interviews with treating veterinarians or the pathologist who conducted the necropsy to document the answers to the questions necessary to prove your case:
 - a. severity of injury
 - b. degree of suffering
 - c. was the suffering preventable? If so, how?
 - d. what would a reasonable custodian have seen or noticed?
 - e. what is the prognosis?
 - f. does a dog with only 3 legs suffer?
 - g. what was the cause or instrumentality of death?
 - h. how long was the victim in this condition?
4. Review records for prior police or animal care reports
5. Take follow-up photographs or videos as necessary.
6. Order laboratory analyses as necessary, e.g.: fingerprints on weapons or chains; DNA; ballistics.
7. Enlist the aid of the media in locating unknown assailants
8. Coordinate with the Animal Care; Livestock; Game & Fish investigators on matters of animal behavior, breed types, training; medical and care issues, etc.
9. Determine fate of victim: maintained by Livestock?; fostered out? degree of recovery? euthanized?
10. Seek out experts in the care and training of your victim
11. Use Grand Jury subpoenas to obtain feed bills; vet records; association memberships and other documentary evidence including background of suspect

III. OTHER ISSUES

A. Victim dynamics similar to humans:

1. Owners may experience profound sense of loss and grief

2. Children witnessing violence in any form is its own trauma
3. In domestic violence offenses, the human victims/witnesses may recant or otherwise become uncooperative

IV. CONTENTS OF INTERVIEWS

A. Suspects:

1. Minimize; provide excuses
2. Obtain recognition of risk or potential consequences of acts/omissions: i.e.: how do you feel when have to go without food? how do you feel when you are out too long in the sun? do you leave your ice cream in the car?
3. Lock into defenses
4. Who can support the defenses

B. Other witnesses:

1. What did they see plus what did they hear? or smell?
2. Past observations or behaviors
3. Other suspects including members of the household
4. Corroborate or defeat the defenses: suspect's explanation is not an approved form of training

C. Veterinary Experts

1. Severity of injury
2. Prognosis and long-term effects
3. Mechanism of injury
4. Length of time victim has been injured or ill
5. Length of time it takes for victim to be in current condition
6. Cause and mechanism of death
 - a. Rule out explanations offered by suspect
 - b. Rule out alternative causes